

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JAMES E. STOTLER,

Plaintiff,

v.

COMMONWEALTH OF
PENNSYLVANIA DEPARTMENT OF
CORRECTIONS, et al.,

Defendant.

NO. 3:08:-CV-1389

(JUDGE CAPUTO)

MEMORANDUM ORDER

Before me is Plaintiff's Complaint, which seeks remedies for alleged violations of 42 U.S.C. §§ 1981, 1983, 1985, Title VII of the Civil Rights Act of 1964, and state law claims. The Complaint, however, does not expressly allege a basis for this Court's exercise of subject matter jurisdiction. Federal courts have an obligation to address issues of subject matter jurisdiction *sua sponte*. *Meritcare Inc. v. St. Paul Mercury Ins. Co.*, 166 F.3d 214, 217 (3d Cir. 1999.) Subject matter jurisdiction must be averred in the complaint. FED. R. CIV. P. 8(a). Plaintiff has not asserted that the Court has jurisdiction pursuant to diversity of citizenship, and although the Complaint raises civil rights claims arising under federal law, Plaintiff has not averred that this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, § 1343, or any other provision. Although Title VII of the Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e, *et seq.*, which Plaintiff cites, includes a provision conferring subject matter jurisdiction, 42 U.S.C. § 2000e-5(f)(3), Plaintiff does not allege that this provision confers jurisdiction over the instant action. *See Kent County Memorial Hosp.*

v. Balasco, Civ. A. No. 89-0075B, 1990 WL 17157, at *3 (D.R.I. Feb. 13, 1990) (holding that although both 28 U.S.C. § 1331 and a specific provision of the Racketeering Influenced and Corrupt Organizations Protection Act (RICO), 18 U.S.C. § 1964(c), would have given the court subject matter jurisdiction over civil RICO claims, and although the complaint “makes implicit reference to federal question jurisdiction by its RICO allegations,” the complaint did not aver that the court’s jurisdiction was proper).

NOW, this 31st day of July, 2008, upon review of the Plaintiff’s Complaint, **IT IS HEREBY ORDERED THAT** this action is **DISMISSED** without prejudice based upon lack of subject matter jurisdiction.

/s/ A. Richard Caputo

A. Richard Caputo
United States District Judge